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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,538	01/16/2004	Gordan G. Greenlee	END920030141US1	5583
7590 McGuireWoods LLP Suite 1800 1750 Tysons Boulevard McLean, VA 22102			EXAMINER MIRZA, ADNAN M	
			ART UNIT 2145	PAPER NUMBER
			MAIL DATE 10/15/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/758,538	Applicant(s) GREENLEE ET AL.	
	Examiner Adnan M. Mirza	Art Unit 2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01/16/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/16/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-40 are rejected under 35 U.S.C. 102(e) as being unpatentable by Watt (U.S. 7,213,065).

1. As per claims 1,18,24 Watt disclosed a method for load balancing servers, comprising the steps of: allocating a plurality of servers among a plurality of virtual clusters; monitoring the plurality of virtual clusters for workload capacity (col. 4, lines 36-56); and reassigning at least one server from one of the plurality of virtual clusters to another of the plurality of virtual clusters based on workload capacity in order to reallocate system resources (col. 2, lines 34-47).

2. As per claims 2,19,25 Watt disclosed further comprising the steps of: monitoring performance of the plurality of servers; and sending a report in response to workload at one of the plurality of servers exceeding a pre-determined threshold so that routing of further requests to the one of the plurality of servers is altered (col. 15, table. 2).

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3. As per claims 3,21 Watt disclosed further comprising the step of removing the one of the plurality of servers from an associated virtual cluster and adding the one of the plurality of servers back into the associated virtual cluster in response to workload falling below the pre-determined threshold (col. 15, lines 15-28).

4. As per claims 4,27 claims Watt disclosed wherein the sending a report sends a report to a network dispatcher and the network dispatcher performs the routing (col. 7, lines 37-47).

5. As per claims 5,28 claims Watt disclosed further comprising the steps of: determining that one of the plurality of servers is overburdened based on statistics; and reducing workload to the one of the plurality of servers if the statistics are above a threshold (col. 15, lines 15-28).

6. As per claims 6,29 Watt disclosed wherein the reducing step includes at least one of removing the one of a plurality of servers from one of the plurality of virtual clusters and limiting further requests from being routed to the one of a plurality of servers (col. 4, lines 36-56).

7. As per claims 7,30 wherein the reducing step includes reassigning the one of a plurality of servers to another one of the plurality of virtual clusters (col. 2, lines 34-47).

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8. As per claims 8,31 Watt disclosed wherein at least one of the plurality of servers is assigned to more than one of the plurality of virtual clusters (col. 16, lines 28-35).

9. As per claims 9,22,32 Watt disclosed wherein the predetermined criteria includes at least one of requester identity, requested application, time of day, day of week, and performance statistics (col. 16, lines 59-67).

10. As per claims 10,33 Watt disclosed wherein the requester identity is an Internet address (col. 3, lines 1-5).

11. As per claims 11,34 Watt disclosed wherein the performance statistics include at least one of central processing unit (CPU) performance statistics, memory statistics, connection counts, throughput statistics, and response time statistics (col. 18, lines 34-46).

12. As per claims 12,35 Watt disclosed wherein the routing step includes selecting one of the plurality of virtual clusters for routing based on at least one of a requester's identity and a requested application (col. 16, lines 59-67).

13. As per claims 13,23,36 Watt disclosed further including selecting one server from the one of the plurality of virtual clusters for routing based on statistics (col. 16, lines 28-35).

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14. As per claims 14,37 Watt disclosed wherein the selecting is based on performance statistics (col. 2, lines 32-47).

15. As per claims 15,38 Watt disclosed wherein at least one of the plurality of servers is at least one of a lightweight directory access protocol (LDAP) server and a web application server (col. 2, lines 58-67).

16. As per claims 16,39 Watt disclosed wherein the routing uses rules based routing (col. 3, lines 45-50).

17. As per claims 17,20,26,40 Watt disclosed further comprising the steps of reassigning one of the plurality of servers from one of the plurality of virtual clusters to another one of the plurality of virtual clusters, wherein the one of the plurality of virtual clusters has a workload below a threshold and the another one of the plurality of virtual clusters has a workload above the pre-determined threshold (col. 15, lines 15-28).

Conclusion

18. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Adnan Mirza whose telephone number is (571)-272-3885.

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19. The examiner can normally be reached on Monday to Friday during normal business hours. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571)-272-3933. The fax for this group is (703)-746-7239. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

20. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866)-217-9197 (toll-free).

Am

Adnan Mirza

Examiner


JASON CARDONE
SUPERVISORY PATENT EXAMINER